



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2010-0848; FRL-9374-6]

Notice of Intent to Suspend Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice, pursuant to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), publishes two notices of intent to suspend issued by EPA. Each Notice of Intent to Suspend was issued following the Agency's issuance of a Data Call-In notice (DCI), which required the registrants of the affected pesticide products containing a certain pesticide active ingredient to take appropriate steps to secure certain data, and following the registrants' failure to submit these data or to take other appropriate steps to secure the required data. The subject data were determined to be required to maintain in effect the existing registrations of the affected products. Failure to comply with the data requirements of a DCI is a basis for suspension of the affected registrations under FIFRA.

DATES: Each Notice of Intent to Suspend included in this **Federal Register** notice will become a final and effective suspension order automatically by operation of law 30 days after the date of the registrant's receipt of the mailed Notice of Intent to Suspend or 30 days after the date of publication of this notice in the **Federal Register** (if the mailed Notice of Intent to Suspend is returned to the Administrator as undeliverable, if delivery is refused, or if the Administrator otherwise is unable to accomplish delivery to the registrant after making reasonable efforts to do so), unless during that time a timely and

adequate request for a hearing is made by a person adversely affected by the Notice of Intent to Suspend, or the registrant has satisfied the Administrator that the registrant has complied fully with the requirements that served as a basis for the Notice of Intent to Suspend. Unit IV. explains what must be done to avoid suspension under this notice (i.e., how to request a hearing, or how to comply fully with the requirements that served as a basis for the Notice of Intent to Suspend).

FOR FURTHER INFORMATION CONTACT: Veronica Dutch, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8585; *dutch.veronica@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How Can I Get Copies of this Document and Other Related Information?

The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2010-0848, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental

Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

II. Registrants Issued Notices of Intent to Suspend Active Ingredient, Products Affected, and Dates Issued

The Notices of Intent to Suspend were sent via the U.S. Postal Service (USPS), return receipt requested to, the registrants for the products listed in Table 1 of this unit.

Table 1--List of Products

Registrant Affected	Active Ingredient	EPA Registration Number	Product Name	Date EPA Issued Notice of Intent to Suspend
Adams Technology Systems	MGK-264	7754-41	Bug Barrier II	12/11/12
CTX Cenol Corporation	MGK-264	45385-93	CTX/Cyber Blast	12/11/12

III. Basis for Issuance of Notice of Intent to Suspend; Requirement List

The registrants failed to submit the required data or information or to take other appropriate steps to secure the required data for their pesticide products listed in Table 2 of this unit.

Table 2—List of Requirements

Registrant Affected	EPA Registration Number	Guideline Number as Listed in Applicable DCI	Requirement Name	Date EPA Issued DCI	Date Registrant Received DCI	Final Data Due Date	Reason for Notice of Intent to Suspend*

Adams Technology Systems	7754-41	830.1550	Product identity and composition	6/16/09	6/25/09	3/16/10	1,3
CTX Cenol Corporation	45385-93	830.1600	Description of materials used to produce the product	6/16/09	6/25/09	3/16/10	1,3
		830.1620	Description of production process	6/16/09	6/25/09	3/16/10	1,3
		830.1650	Description of formulation process	6/16/09	6/25/09	3/16/10	1,3
		830.1670	Discussion of formation of impurities	6/16/09	6/25/09	3/16/10	1,3
		830.1700	Preliminary analysis	6/16/09	6/25/09	3/16/10	1,3
		830.1750	Certified limits	6/16/09	6/25/09	3/16/10	1,3
		830.1800	Enforcement analytical method	6/16/09	6/25/09	3/16/10	1,3
		830.6302	Color	6/16/09	6/25/09	3/16/10	1,3
		830.6303	Physical state	6/16/09	6/25/09	3/16/10	1,3
		830.6304	Odor	6/16/09	6/25/09	3/16/10	1,3
		830.6313	Stability to normal and elevated temperatures, metals, and metal ions	6/16/09	6/25/09	3/16/10	1,3
		830.6314	Oxidizing or reducing action	6/16/09	6/25/09	3/16/10	1,3
		830.6315	Flammability	6/16/09	6/25/09	3/16/10	1,3
		830.6316	Explosibility	6/16/09	6/25/09	3/16/10	1,3
		830.6317	Storage stability	6/16/09	6/25/09	3/16/10	1,3
		830.6319	Miscibility	6/16/09	6/25/09	3/16/10	1,3
		830.6320	Corrosion characteristics	6/16/09	6/25/09	3/16/10	1,3
		830.6321	Dielectric breakdown voltage	6/16/09	6/25/09	3/16/10	1,3
		830.7000	pH	6/16/09	6/25/09	3/16/10	1,3
		830.7050	UV/Visible absorption	6/16/09	6/25/09	3/16/10	1,3
		830.7100	Viscosity	6/16/09	6/25/09	3/16/10	1,3
		830.7200	Melting point/melting	6/16/09	6/25/09	3/16/10	1,3

			range				
		830.7220	Boiling point/boiling range	6/16/09	6/25/09	3/16/10	1,3
		830.7300	Density/relative density	6/16/09	6/25/09	3/16/10	1,3
		830.7370	Dissociation constants in water	6/16/09	6/25/09	3/16/10	1,3
		830.7550	Partition coefficient (n-octanol/water) shake flask method	6/16/09	6/25/09	3/16/10	1,3
		830.7570	Partition coefficient (n-octanol/water) estimation by liquid chromatography	6/16/09	6/25/09	3/16/10	1,3
		830.7840	Water solubility: Column elution method, shake flask method	6/16/09	6/25/09	3/16/10	1,3
		830.7860	Water solubility, generator column method	6/16/09	6/25/09	3/16/10	1,3
		830.7950	Vapor pressure	6/16/09	6/25/09	3/16/10	1,3
		870.1100	Acute oral toxicity	6/16/09	6/25/09	3/16/10	1,3
		870.1200	Acute dermal toxicity	6/16/09	6/25/09	3/16/10	1,3
		870.1300	Acute inhalation toxicity	6/16/09	6/25/09	3/16/10	1,3
		870.2400	Acute eye irritation	6/16/09	6/25/09	3/16/10	1,3
		870.2500	Acute dermal irritation	6/16/09	6/25/09	3/16/10	1,3
		870.2600	Skin sensitization	6/16/09	6/25/09	3/16/10	1,3

*¹ No 90-day response received.

² Inadequate 90-day response received.

³ No data received.

⁴ Inadequate data received.

IV. How to Avoid Suspension Under this Notice?

1. You may avoid suspension under this notice if you, or another person adversely affected by this notice, properly request a hearing within 30 days of your receipt of the Notice of Intent to Suspend by mail or, if you did not receive the notice that was sent to you via USPS first class mail return receipt requested, then within 30 days from the date of publication of this **Federal Register** notice (see **DATES**). If you request a hearing, it will be conducted in accordance with the requirements of FIFRA section 6(d) and the Agency's procedural regulations in 40 CFR part 164. Section 3(c)(2)(B) of FIFRA, however, provides that the only allowable issues which may be addressed at the hearing are whether you have failed to take the actions which are the bases of this notice and whether the Agency's decision regarding the disposition of existing stocks is consistent with FIFRA. Therefore, no substantive allegation or legal argument concerning other issues, including but not limited to the Agency's original decision to require the submission of data or other information, the need for or utility of any of the required data or other information or deadlines imposed, any allegations of errors or unfairness in any proceedings before an arbitrator, and the risks and benefits associated with continued registration of the affected product, may be considered in the proceeding. The Administrative Law Judge shall by order dismiss any objections which have no bearing on the allowable issues which may be considered in the proceeding. Section 3(c)(2)(B)(iv) of FIFRA, provides that any hearing must be held and a determination issued within 75 days after receipt of a hearing request. This 75-day period may not be extended unless all parties in the proceeding stipulate to such an extension. If a hearing is properly requested, the Agency will issue a final order at the conclusion of the hearing

governing the suspension of your products. A request for a hearing pursuant to this notice must:

- Include specific objections which pertain to the allowable issues which may be heard at the hearing.
- Identify the registrations for which a hearing is requested.
- Set forth all necessary supporting facts pertaining to any of the objections which you have identified in your request for a hearing.

If a hearing is requested by any person other than the registrant, that person must also state specifically why he/she asserts that he/she would be adversely affected by the suspension action described in this notice. Three copies of the request must be submitted to: Hearing Clerk, 1900, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

An additional copy should be sent to the person who signed this notice. The request must be received by the Hearing Clerk by the applicable 30-day deadline as measured from your receipt of the Notice of Intent to Suspend by mail or publication of this notice, as set forth in **DATES** and in Unit IV.1., in order to be legally effective. The 30-day time limit is established by FIFRA and cannot be extended for any reason. Failure to meet the 30-day time limit will result in automatic suspension of your registration(s) by operation of law and, under such circumstances, the suspension of the registration for your affected product(s) will be final and effective at the close of business on the applicable 30th day deadline as measured from your receipt of the Notice of Intent to Suspend by mail or publication of this notice, as set forth in **DATES** and in Unit IV.1., and will not be subject to further administrative review. The Agency's rules of practice at

40 CFR 164.7 forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives. Accordingly, the following EPA offices, and the staffs thereof, are designated as judicial staff to perform the judicial function of EPA in any administrative hearings on this Notice of Intent to Suspend: The Office of the Administrative Law Judges, the Office of the Environmental Appeals Board, the Administrator, the Deputy Administrator, and the members of the staff in the immediate offices of the Administrator and Deputy Administrator. None of the persons designated as the judicial staff shall have any *ex parte* communication with trial staff or any other interested person not employed by EPA on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

2. You may also avoid suspension if, within the applicable 30 day deadline period as measured from your receipt of the Notice of Intent to Suspend by mail or publication of this notice, as set forth in **DATES** and in Unit IV.1., the Agency determines that you have taken appropriate steps to comply with the FIFRA section 3(c)(2)(B) Data Call-In notice. In order to avoid suspension under this option, you must satisfactorily comply with Table 2--List of Requirements in Unit II., for each product by submitting all required supporting data/information described in Table 2. of Unit. II. and in the Explanatory Appendix (in the docket for this **Federal Register** notice) to the following address (preferably by certified mail): Office of Pesticide Programs, Pesticide Re-evaluation Division, Environmental Protection Agency, 1200 Pennsylvania Ave.,

N.W., Washington, DC 20460-0001. For you to avoid automatic suspension under this notice, the Agency must also determine within the applicable 30-day deadline period that you have satisfied the requirements that are the bases of this notice and so notify you in writing. You should submit the necessary data/information as quickly as possible for there to be any chance the Agency will be able to make the necessary determination in time to avoid suspension of your products. The suspension of the registration of your company's product pursuant to this notice will be rescinded when the Agency determines you have complied fully with the requirements which were the bases of this notice. Such compliance may only be achieved by submission of the data/information described in Table 2 of Unit II.

V. Status of Products that Become Suspended

Your product will remain suspended, however, until the Agency determines you are in compliance with the requirements which are the bases of this notice and so informs you in writing.

After the suspension becomes final and effective, the registrants subject to this notice, including all supplemental registrants of products listed in Table 1 of Unit II., may not legally distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the products listed in Table 1 of Unit II. Persons other than the registrants subject to this notice, as defined in the preceding sentence, may continue to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the products listed in Table 1 of Unit II. Nothing in this notice authorizes any person to distribute, sell, use, offer for sale, hold for sale, ship,

deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the products listed in Table 1 of Unit II. in any manner which would have been unlawful prior to the suspension.

If the registrations for your products listed in Table 1 of Unit II. are currently suspended as a result of failure to comply with another FIFRA section 3(c)(2)(B) Data Call-In notice or section 4 Data Requirements notice, this notice, when it becomes a final and effective order of suspension, will be in addition to any existing suspension, i.e., all requirements which are the bases of the suspension must be satisfied before the registration will be reinstated.

It is the responsibility of the basic registrant to notify all supplementary registered distributors of a basic registered product that this suspension action also applies to their supplementary registered products. The basic registrant may be held liable for violations committed by their distributors.

Any questions about the requirements and procedures set forth in this notice or in the subject FIFRA section 3(c)(2)(B) Data Call-In notice, should be addressed to the person listed under **FOR FURTHER INFORMATION CONTACT**.

VI. What is the Agency's Authority for Taking this Action?

The Agency's authority for taking this action is contained in FIFRA sections 3(c)(2)(B) and 6(f)(2), 7 U.S.C. 136 *et seq.*

List of Subjects

Environmental protection, Pesticides and pests.

Dated: January 10, 2013

Michael Goodis,
Acting Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

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